

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BIANCA BARNES,

Plaintiff,

v.

21-CV-591-LJV-MJR
DECISION & ORDER

COMPASS RECOVERY GROUP, LLC,
et al.,

Defendants.

On May 6, 2021, the plaintiff, Bianca Barnes, commenced this action alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* Docket Item 1. On June 28, 2021, the defendants, Compass Recovery Group, LLC, and Brightwater Capital LLC, answered the complaint and raised eight affirmative defenses. Docket Item 7. On July 13, 2021, the plaintiff moved to strike three of the defendants' affirmative defenses. Docket Item 11. The defendants did not respond to that motion.

On July 14, 2021, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 12. On October 5, 2021, Judge Roemer issued a Report and Recommendation ("R&R") finding that the plaintiff's motion should be granted in part and denied in part. Docket Item 15. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party

objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's R&R as well as the parties' submissions. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to grant the plaintiff's motion in part and deny it in part.

For the reasons stated above and in the R&R, the plaintiff's motion to strike the defendants' affirmative defenses, Docket Item 11, is GRANTED in part and DENIED in part. The Court strikes the defendants' second and third affirmative defenses without leave to amend and otherwise denies the motion.¹ The case is referred back to Judge Roemer for further proceedings consistent with the referral order of July 14, 2021, Docket Item 12.

SO ORDERED.

Dated: November 30, 2021
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

¹ Because the defendants neither responded to the plaintiff's motion to strike nor objected to the R&R, they have offered no reason why amending the answer might salvage their affirmative defenses. For that reason, this Court agrees with Judge Roemer that there is no reason to provide the defendants with leave to amend.